

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Arjan De Mes Docket No.: GB920030013US1

Serial No.: 10/809,575 Group Art Unit: 2164

Filed: March 25, 2004 Examiner: Rezwanul Mahmood

Entitled: "Searchable Personal Browsing History"

Commissioner for Patents

Filed Electronically

Sir:

APPEAL BRIEF

I. Real Party in Interest

International Business Machines Corporation is the real party in interest.

II. Related Appeals and Interferences

There are no related Appeals or Interferences.

III. Status of Claims

Claims 1-33, 36, 40, 42-45, 48 and 52 have been Canceled.

Claims 34, 35, 37, 38, 39, 41, 46, 47, 49, 50, 51 and 53 are Pending and Finally Rejected.

Claims 34, 35, 37, 46, 47 and 49 are Appealed.

IV. Status of Amendments

A (first) Amendment under Rule 116 (to the specification and claims 38, 39, 41, 50, 51 and 53) was filed on December 3, 2009 after Final Rejection, but was not entered.

A Second Amendment under Rule 116 (to the specification but not to any claims) was filed on December 30, 2009 after Final Rejection, and was entered.

V. Summary of Claimed Subject Matter

Support for claim elements is indicated in plain brackets [].

Claim 34 recites a method for displaying a web browsing history. [Personal Browsing history application 125 of Figure 1. Page 6 line 21 to Page 8 line 20. Figure 5 illustrates an example of a web browser history display.] In response to a search request for recently visited web sites received from a web browser within a client computer connected to a computer network, a list of names of web sites visited by a user of the client computer is displayed. [Page 10 lines 11-34. Steps 400 and 410. Figure 5 Recent Sites window 500. Page 11 lines 18-26. Additional text added to Page 11 line 28 in last Amendment.] The list of names of the web sites recently visited is displayed on a display screen of the client computer in an order based on a time since last visit by the user to a respective web site of the recently visited web sites displayed in the list. [Figure 5 Recent Sites window 500 which states “This is the latest list of sites recently visited. Color indicates time since last visited.” The color in bar 505 in Recent Site window 500 has increasing intensity in the upward direction indicating more recently visited web pages/sites. Page 11 lines 18-26. Additional text added to Page 11 line 28 in last

Amendment.] Next to each of the names of the web sites is displayed a respective graphic having an intensity that corresponds to a respective time since last visit by the user to the each of the web sites displayed to provide an ordered web site name list display. [Figure 5 Recent Sites window 500 which states “This is the latest list of sites recently visited. Color indicates time since last visited.” Page 11 lines 18-26 and lines 32-34 which states “The scoring is displayed to the user by a color gradient bar 505, the higher the score the more intense the color.” The color in bar 505 in Recent Site window 500 of Figure 5 has increasing intensity in the upward direction indicating more recently visited web pages at the top of the list. Additional text added to Page 11 line 28 in last Amendment.] The ordered web site name list display consists essentially of the list of names of the web sites in a chronological order based on a respective time since last visit by the user and the respective graphic next to a respective name of a respective web site having an intensity that corresponds to the respective time since last visit by the user. [Figure 5 Recent Sites window 500 which includes a list of web pages/sites, i.e. “Google”, “Slashdot: News for nerds, stuff that matters”, “Informatic, website vendor”, etc. Window 500 states “This is the latest list of sites recently visited. Color indicates time since last visited.” Page 11 lines 18-26 and lines 32-34 which states “The scoring is displayed to the user by a color gradient bar 505, the higher the score the more intense the color.” The color in bar 505 in Recent Site window 500 of Figure 5 has increasing intensity in the upward direction indicating more recently visited web pages at the top of the list. Additional text added to Page 11 line 28 in last Amendment.]

Claim 46 recites a computer program product stored on a computer readable storage medium for displaying to a user a web browsing history on a client computer system connected to a network and having a central processing unit. [Personal Browsing history application 125 of Figure 1. Page 6 line 21 to Page 8 line 20. Figure 5 illustrates an example of a web browser history display.] The computer program product includes a computer readable storage medium. [Storage 120 or RAM 110. Page 5 lines 21-27. Page 6 lines 2-4 and 9-20.] First program instructions display, on a display screen of the client computer system and responsive to a search request for recently visited web sites received from a web browser within the client computer system, a list of names of web sites recently visited by a user of the client computer system. [Page 10 lines 11-34. Steps 400 and 410 of application program 125. Figure 5 Recent Sites window 500. Page 11 lines 18-26. Additional text added to Page 11 line 28 in last Amendment.] The list of names of the web sites are displayed on a display screen of the client computer system in an order based on a time since last visit by the user to a respective web site of the recently visited web sites displayed in the list. [Figure 5 Recent Sites window 500 which states “This is the latest list of sites recently visited. Color indicates time since last visited.” The color in bar 505 in Recent Site window 500 has increasing intensity in the upward direction indicating more recently visited web pages/sites. Page 11 lines 18-26. Additional text added to Page 11 line 28 in last Amendment.] Second program instructions display, next to each of the names of the web sites, a respective graphic having an intensity that corresponds to a respective time since last visit by the user to each of the web sites displayed to provide an ordered web site name list display. [Figure

5 Recent Sites window 500 which states “This is the latest list of sites recently visited. Color indicates time since last visited.” Page 11 lines 18-26 and lines 32-34 which states “The scoring is displayed to the user by a color gradient bar 505, the higher the score the more intense the color.” The color in bar 505 in Recent Site window 500 of Figure 5 has increasing intensity in the upward direction indicating more recently visited web pages at the top of the list. Additional text added to Page 11 line 28 in last Amendment.] The ordered web site name list display consists essentially of the list of names of the web sites in a chronological order based on a respective time since last visit by the user and the respective graphic next to a respective name of a respective web site having an intensity that corresponds to the respective time since last visit by the user. [Figure 5 Recent Sites window 500 which includes a list of web pages/sites, i.e. “Google”, “Slashdot: News for nerds, stuff that matters”, “Informatic, website vendor”, etc. Window 500 states “This is the latest list of sites recently visited. Color indicates time since last visited.” Page 11 lines 18-26 and lines 32-34 which states “The scoring is displayed to the user by a color gradient bar 505, the higher the score the more intense the color.” The color in bar 505 in Recent Site window 500 of Figure 5 has increasing intensity in the upward direction indicating more recently visited web pages at the top of the list. Additional text added to Page 11 line 28 in last Amendment.] The first and second program instructions are recorded on the storage medium for execution by the central processing unit of the client computer system for displaying the web browsing history to the user. [Storage 120 or RAM 110. Processor 105. Page 5 lines 21-27. Page 6 lines 2-4 and 9-20. Figure 5 illustrates an example of a web browser history.]

VI. Grounds of Rejection to be Reviewed upon Appeal

Claims 34, 35, 37, 46, 47 and 49 were rejected under 35 USC 103(a) based on US Publication 2004/0003351 by Sommerer, US Publication 2004/0073713 by Penikainen and US Publication 2002/0129164 by Van Der Meulen.

VI. Argument

A claim cannot be anticipated under 35 USC 102 unless each and every element as recited in the claim is found in a single prior art reference. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

A claim cannot be obvious under 35 USC 103 unless (a) there is a reason that a person of ordinary skill in the art would have combined the references, and (b) all the claim elements are taught or suggested by the prior art. See In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438, 1443 (Fed Cir. 1991) and KSR Int'l Co. v. Teleflex, Inc., No. 04-1350 (USSC 30 April 2007). Otherwise, there is not a prima facie case of obviousness.

Rejection of Claim 34 under 35 USC 103(a)

Based on Sommerer, Penikainen and Van Der Meulen

Claim 34 recites the step of displaying next to each of the names of the web sites, a respective graphic having an intensity that corresponds to a respective time since last visit by the user to provide an ordered web site name list display. This feature is not taught or suggested by the prior art.

Sommerer discloses association of a color with a resource page to help a user locate the resource page based on the associated color. The associated color becomes a searchable parameter (along with the text),

“A user may input text into a search text box 338, which is applied in a typical search engine fashion. Alternatively, the user may select a color or other visual aspect (e.g., frame border type image, texture, font, etc.) of a previously viewed resource page into a visual aspect drop down box 340. In this manner, a user can search for a visual aspect that they remember, even if the user does not remember any text from the resource page (e.g., search for the resource page with the green background). If both the search text box 338 and the visual aspect dropdown box 340 are selected, the search parameters (i.e., the text and the visual aspect) are logically combined in the search. A search is initiated by selection of the search button 342. The search is applied to the resource pages of the entire browser session, which is stored in the archive data storage, although limits maybe placed on the search, such as limiting the search to the current trail.” Sommerer Paragraph [0057].

However, Sommerer's association of a color with a resource page to help a user search/locate the resource page based on the associated color is not related to the present invention. It is not a graphic having an intensity that corresponds to a respective time since last visit by the user, as recited in claim 34. Sommerer also disclose a “color gradient” to indicate the degree of match of search results to a key word search:

“A user may input text into a search text box 338, which is applied in a typical search engine fashion. ... Search results are indicated by colored vertical bars in the navigation overview (i.e., orange vertical bars in a color display) for trails having resource pages that satisfy the search criteria. Additionally, the visited nodes displayed in the current rail that satisfy the search criteria are also highlighted. For example, matches may be highlighted in the same color or with varied intensity of color to reflect the quality of the match for a particular node with respect to the search query (e.g., color gradation from bright red for a very good match, to orange for a medium match, to yellow for a low relevance match, etc.)” Sommerer Paragraph [0057]

However, Sommerer use the color gradation to indicate the *degree* to which each search result matches a key word search, and not the respective time of last visit by the user to each web site (or page) as recited in claim 34. Sommerer does not disclose or suggest different shade intensities to indicate respective times since last visit by the user to a web site (or page). This would not have been obvious in view of Sommerer because “time since last visit” is not conceptually an intensity/percentage level, whereas the *degree* to which each search result matches a key word search in Sommerer is an intensity/percentage level.

US 2004/0073713 by Pentikainen et al. disclose a browser history based on first visited or last visited URLs and is searchable on the basis of when browsing occurred or the number of visits to a particular URL,

“During browsing the browsing history server keeps a record of the URLs from which content has been taken. A pre-defined number of URLs are stored. This may be the last certain number of URLs which have been browsed or the URLs which have been browsed over a specific period of time. For example, it may be that the last five, ten, twenty, thirty, forty, fifty or even hundred URLs may be stored. Each URL of the browsing history is stored so that it has associated with it a plurality of parameters including title, URL, first visited, last visited and visit count contained within in separate data fields. Accordingly, the browsing histories are stored in the form of a table or stored in a way in which they can be presented to a user as being a table. The data fields of the URLs may be individually viewable and sortable. This may also be searchable. For example, the searching or the sorting can be on the basis of when browsing occurred or the number of visits which have been to a particular URL.” Pentikainen et al.

Paragraph [0100]

However, Pentikainen et al. do not use shade intensities to indicate a level of anything. Pentikainen et al. do not disclose or suggest different shade intensities to indicate respective times since last visit by the user to a web site (or page), and therefore, do not fill the foregoing gap of Sommerer.

US 2002/0129164 by Van Der Meulen et al. disclose a horizontal bar graph or histogram,

“A visual effect is caused so as to indicate the level of validity of the respective paths associated with the bookmarks 202-218. Thus, in this embodiment, visual indicators 260, 262 and 264 are displayed next to each bookmark 202-218. The visual indication is here a graphical “gauge” that can show three different filling levels leading to three different indicators 260, 262 and 264. The indicators 260-264 may be colored. The indicator 260 is a full gauge that, when associated with a bookmark, indicates a full validity of the first path initially associated with the bookmark. Thus in this embodiment, each bookmark 202, 208 or 216 leads to the first resource. The indicator 262 is a half-filled gauge that, when associated with a bookmark, indicates that the first path associated with the bookmark is not valid but that a sub-path of the first path can be found valid. In this embodiment, the bookmarks 206, 212 and 214 are no longer associated with the respective first paths but are associated with valid sub-paths of the respective first paths. The indicator 264 is an empty gauge that when associated with a bookmark, indicates that the first path is invalid and that no sub-path of the first path is valid.” Van Der Meulen et al. Paragraph [0049]

The horizontal bar graph or histogram of Van Der Meulen is illustrated in Figures 2 and 3 of Van Der Meulen. While the histogram of Van Der Meulen can be black and white or a color and white, the histogram does not use shade intensities to indicate a level of anything. Rather, the histogram of Van Der Meulen uses the length of the bar (i.e. no bar, half bar or full bar) in the histogram to indicate a level. Van Der Meulen does not disclose or suggest different shade intensities to indicate respective times since last visit by the user to a web site (or page), and therefore, does not fill the foregoing gap of Sommerer and Pentikainen et al. Therefore, these three references do not form a prima facie case of obviousness.

Rejection of Claim 35 under 35 USC 103(a)

Based on Sommerer, Penikainen and Van Der Meulen

Claim 35 depends on claim 34, and therefore, distinguishes over the prior art for same reasons that claim 34 distinguishes thereover. In addition, claim 35 recites that the intensity of the respective graphic next to a name of a respective newer web site in the list of names of web sites displayed on the display screen of the client computer is more intense for a newer web site more recently visited by the user than the intensity of the respective graphic next to another name of another older web site in the list of names of the web sites that corresponds to an older web site less recently visited by the user. As explained above, none of the cited references teaches or suggests the use of shade intensities to indicate time since last visit to a web site (or page). Therefore, there is not a prima facie case of obviousness for claim 35.

Rejection of Claim 37 under 35 USC 103(a)

Based on Sommerer, Penikainen and Van Der Meulen

Claim 37 depends on claim 35 which depends on claim 34, and therefore, distinguishes over the prior art for the same reasons that claim 34 distinguishes thereover. In addition, claim 37 recites that the respective graphic next to the respective newer web site in the list of names of the web sites adjoins with the other respective graphic next to the other older web site to form a gradient bar corresponding to the list of names of the recently visited web sites. As explained above, none of the cited references teaches or suggests the use of shade intensities to indicate time since last visit to the web site (or page). Therefore, there is not a prima facie case of obviousness for the gradient bar of claim 37.

Rejection of Claim 46 under 35 USC 103(a)

Based on Sommerer, Penikainen and Van Der Meulen

Independent claim 46, in computer program product format, distinguishes over Sommerer, Pentikainen et al. and Van Der Meulen for the same reasons that claim 34 distinguishes thereover.

Rejection of Claim 47 under 35 USC 103(a)

Based on Sommerer, Penikainen and Van Der Meulen

Claim 47 depends on claim 45 and therefore, distinguishes over Sommerer, Pentikainen et al. and Van Der Meulen for the same reasons that claim 45 distinguishes thereover. In addition, claim 47 further distinguishes over the prior art for the same reasons that claim 35 further distinguishes over the prior art.

Rejection of Claim 49 under 35 USC 103(a)

Based on Sommerer, Penikainen and Van Der Meulen

Claim 49 depends on claim 47 which depends on claim 45, and therefore, distinguishes over Sommerer, Pentikainen et al. and Van Der Meulen for the same reasons that claim 45 distinguishes thereover. In addition, claim 49 further distinguishes over the prior art for the same reasons that claim 37 further distinguishes over the prior art.

Based on the foregoing, Appellants request reversal of all rejections made by the Examiner.

Respectfully submitted,

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IX. Claims Appendix

34. A method for displaying a web browsing history, said method comprising the steps of:

displaying, in response to a search request for recently visited web sites received from a web browser within a client computer connected to a computer network, a list of names of web sites visited by a user of said client computer, said list of names of said web sites recently visited being displayed on a display screen of said client computer in an order based on a time since last visit by said user to a respective web site of said recently visited web sites displayed in said list; and

displaying next to each of said names of said web sites, a respective graphic having an intensity that corresponds to a respective time since last visit by said user to said each of said web sites displayed to provide an ordered web site name list display; wherein said ordered web site name list display consists essentially of said list of names of said web sites in a chronological order based on a respective time since last visit by said user and said respective graphic next to a respective name of a respective web site having an intensity that corresponds to said respective time since last visit by said user.

35. A method as set forth in claim 34, wherein said intensity of said respective graphic next to a name of a respective newer web site in said list of names of web sites displayed on said display screen of said client computer is more intense for a newer web site more recently visited by said user than said intensity of said respective graphic next to another name of another older web site in said list of names of said web sites that corresponds to an older web site less recently visited by said user.

37. A method as set forth in claim 35, wherein said respective graphic next to said respective newer web site in said list of names of said web sites adjoins with said another respective graphic next to said another older web site to form a gradient bar corresponding to said list of names of said recently visited web sites.

46. A computer program product stored on a computer readable storage medium for displaying to a user a web browsing history on a client computer system connected to a network and having a central processing unit, said computer program product comprising:

a computer readable storage medium;

first program instructions to display, on a display screen of said client computer system and responsive to a search request for recently visited web sites received from a web browser within said client computer system, a list of names of web sites recently visited by a user of said client computer system, said list of names of said web sites being displayed on a display screen of said client computer system in an order based on a time since last visit by said user to a respective web site of said recently visited web sites displayed in said list; and

second program instructions to display, next to each of said names of said web sites, a respective graphic having an intensity that corresponds to a respective time since last visit by said user to said each of said web sites displayed to provide an ordered web site name list display; wherein said ordered web site name list display consists essentially of said list of names of said web sites in a chronological order based on a respective time since last visit by said user and said respective graphic next to a respective name of a respective web site having an intensity that corresponds to said respective time since last visit by said user; and wherein said first and second program instructions are recorded on said storage medium for execution by said central processing unit of said client computer system for displaying said web browsing history to said user.

47. A computer program product as set forth in claim 46, wherein said intensity of said respective graphic next to a name of a respective newer web site in said list of names of web sites displayed on said display screen of said client computer is more intense for a newer web site more recently visited by said user than said intensity of said respective graphic next to another name of another older web site in said list of names of web sites that corresponds to an older web site less recently visited by said user.

49. A computer program product as set forth in claim 47, wherein said respective graphic next to said respective newer web site in said list of names of said web sites adjoins with said another respective graphic next to said another older web site to form a gradient bar corresponding to said list of names of said web sites.

IX. Evidence Appendix

There is no evidence entered or relied upon in this Appeal.

X. Related Proceedings Appendix

There are no related Appeals or Interferences, and therefore, no copies of decisions in such proceedings.